

**TENNESSEE
COLLECTION SERVICE BOARD
MINUTES**

DATE: March 3, 2009

PLACE: Andrew Johnson Tower – 2nd Floor Conference Room
710 James Robertson Parkway
Nashville, Tennessee

PRESENT: Board Members:
Bart Howard, Chairman
Elizabeth Trinkler
Worrick Robinson
James Mitchell

PRESENT: Staff Members:
Donna Hancock, Interim Director
Terrance Bond, Staff Attorney
Judy Elmore, Administrative Assistant
Dan Syraic

GUESTS:

CALL TO ORDER:

Chairman Howard called the meeting to order and the following business was transacted:

Interim Director Donna Hancock called the roll.

Roberts Rules of Order---Adoption

MOTION was made by Elizabeth Trinkler and seconded by Worrick Robinson to adopt the Roberts Rules of Order to conduct the Collection Service Board meetings.

Motion Carried

ADOPT AGENDA

MOTION was made by Elizabeth Trinkler, seconded by Worrick Robinson, to adopt the meeting agenda as presented.

MOTION CARRIED

MINUTES

MOTION was made by Worrick Robinson and seconded by Elizabeth Trinkler to *approve the minutes of January 6, 2009 meeting as written.*

MOTION CARRIED.

ADMINISTRATIVE ISSUES---INTERIM DIRECTOR, DONNA HANCOCK

Ms. Hancock presented the Board with a report of open complaints. She stated that there are 81 open complaints with 38 being older than 180 days.

Ms. Hancock presented the Board with the "Conflict of Interest" form and asked all Board members to sign it return it back to Judy Elmore. Ms. Elmore will forward the forms to the Commissioner's office.

Ms. Hancock presented a news release report from Mike Kaehler from the State of Minnesota regarding the Federal Trade Commission. The report stated the "The Federal Trade Commission" has recommended that the debt collection legal system be reformed and modernized to reflect changes in consumer debt, the debt collection industry and technology.

LEGAL REPORT---TERRANCE BOND, STAFF ATTORNEY

FOR DISUCSSION UNIFORM LICENSE APPLICATION

Attorney Bond presented the Board with a uniform license application developed by the NACARA. The Board requested this discussion be deferred until the May 5, 2009 meeting. Each member will review the form and report back with suggested changes or additions to the form.

SERVICE OF PROCESS ON A NONRESIDENT AGENCY

Attorney Bond presented a request from an agency requesting an opinion for the proper way to serve process on a nonresident collection agency under Tennessee law.

MOTION was made by Worrick Robinson and seconded by Elizabeth Trinkler for the Attorney to respond with the following statement: "With regard to the email regarding Service of Process in a private cause of action, TCA 62-20-117 does not modify or alter Tennessee Rules civil procedure and doesn't restrict a party in a private cause action from pursuing their claim in accordance with the Rules of Civil Procedure".

MOTION CARRIED.

Attorney Bond then presented the Board with the Attorney General's Opinion regarding attorneys owning and operating a collection agency the Board had requested at the January 2009 meeting. A discussion will be held at the May 5, 2009 meeting regarding these opinions.

BRANCH OFFICES

Attorney Bond presented the Board with a letter from a previous Director regarding "Branch Offices" having to meet the requirement of being licensed as a branch office. A discussion regarding a branch office license was deferred until the May 5, 2009 meeting.

DISCLAIMER

This Board is not responsible for the contents of the legal report. The report is compiled and presented to the Board by Assistant General Counsel, Terrance Bond.

NOTE: Board adopted all recommendations, and added that it would defer its consideration of the allegations on item #6 until the District Attorney has completed its review of the allegations.

1. 200802603-1

Complainant alleges that the Respondent informed her that collection fees would increase if the debt that she allegedly owed was not paid "soon". Respondent states that the Complainant's statement was "inaccurate", and the collections fees never increase simply because the debtor does not/refuses to pay a debt. Respondent provided account notes which do indicate that such a statement was ever made to the Complainant. The Complainant could not be reached.

Recommendation: Close and flag.

BOARD: CONCURS

2. 200802592-1

Complainant alleges that Respondent called her number for two months, through use of an automated telephone message, attempting to reach a person that she does not know. The Respondent states that the Complainant never notified them that they were dialing the wrong number and that the number was promptly removed from its records upon its receipt of the Complainant's complaint.

Recommendation: Close with no action.

BOARD: CONCURS

3. 200802539-1

Complainant alleges that the Respondent has reported and continues to report inaccurate information on his credit report. He states that he has made several requests to the Respondent to provide verification of the alleged debts or to remove the items from his credit report, and alleges that the Respondent has done neither. Respondent provided written documents that it states were mailed to the Complainant after his letters were received confirming the delinquent account

balances that the Complainant was disputing. The Respondent maintains that the amounts are still owed and that it will continue pursuing collection efforts.

Recommendation: Close with no action.

BOARD: CONCURS

4. 200802597-1

Complainant recently withdrew her allegations against the Respondent.

Recommendation: Close.

BOARD: CONCURS

5. 200802251-1

Complainant alleges that Respondent made misleading statements to her by informing her on September 16, 2008 that a debt would be reported to a credit reporting agency the next day if not paid "today". Complainant alleges that she when she asked Respondent why no written notice had been mailed to her concerning the debt, that she was told that notice had been mailed thirty (30) days prior to the date of the conversation. Complainant states that she satisfied the debt on the day of the conversation in order to avoid having the item being reported as unpaid the next day, as she had been advised by the Respondent. Complainant states that the day after she made payment to the Respondent, she received an initial communication notice from the Respondent setting forth her right to dispute the validity of the debt within thirty (30) days after the date the notice was received. The Complainant provided a copy of the initial notice from the Respondent, which indicates that the notice was issued on September 17, 2008, one (1) day after the Complainant's telephone conversation with the Respondent.

Respondent provided a tape recording of the conversation between its agent and the Complainant wherein:

- a) The Complainant was told by the agent that thirty (30) days has passed since the Respondent sent initial notice of the debt to the Respondent.
- b) The Complainant was told by the agent that credit reporting would occur on the same day that the Complainant called the Respondent if the Complainant did not make payment in full;
- c) The Complainant was told by the agent that credit reporting could only be avoided if she made immediate payment in full and that the Respondent's acceptance of a settlement, even if paid that day, would still result in negative credit reporting.

The Respondent states, with regard to the recording, that it has addressed the issues raised by the Complainant with the agent, and has "written her up" for violating the FDCPA. The Respondent also states that it tests its employees on FDCPA compliance every ninety (90) days, and that the agent will be dismissed from employment if she does not satisfactorily complete the next round of

compliance training. The Respondent also states that it takes FDCPA compliance very seriously and does its best to monitor its agents to ensure compliance.

4 prior complaints—

2005-closed with no action

2006-closed with no action

2006-failure to properly explain settlement terms, closure with letter of warning

2008-unauthorized contact with a third party, closure with a letter of warning

Recommendation: Authorize formal hearing with authority to settle by Consent Order and payment of a \$3,000.00 civil penalty.

BOARD: CONCURS

6. 200801728-1

Complainant alleges that he entered into a contract with the Respondent for collection, and that the Respondent has continuously represented to him that monies have been collected on his behalf without remitting such monies.

Recommendation: Refer to the District Attorney/Attorney General for further action.

BOARD: CONCURS

7. 20080241-1

Complainant alleges that the Respondent contacted him on seeking a person who does not live in his home. Complainant stated that he contacted Respondent once after receiving several calls and requested that the Respondent cease contacting him concerning the individual. Complainant alleges he received a telephone call from the Respondent subsequent to his "cease communication" request, wherein the Complainant alleges that the Respondent told him that a "do not call" request did not apply to or affect him and that he was unconcerned about a possible complaint regarding his behavior. Respondent states that it is "reviewing" its agent's actions and that it takes complaints of unprofessional conduct very seriously. Respondent also states that the Complainant's number, as well as the Complainant's daughter's telephone number, were provided as reference numbers by the indebted party and that the numbers were removed by their agent after the second telephone conversation with the Complainant.

2 prior complaints, both closed with no action.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and \$500.00 civil penalty.

BOARD: CONCURS

8. 200802759-1

Complainant alleges that Respondent harassed her by demanding payment on an account that was not past due and should not have been assigned for collection. Respondent admits that the account was improperly assigned, and states that it attempted to verify payment with its client and with the Complainant after she notified them that the account had been satisfied prior to assignment. The Respondent provided account notes indicating that it made two (2) attempts to verify payment with the client and one (1) attempt to verify payment with the Complainant before the client notified them that the account had been satisfied, after which the Respondent immediately closed the account. The Respondent held the account for less than thirty (30) days.

Recommendation: Close with no action.

BOARD: CONCURS

RULE DISCUSSION

Attorney Bond prepared to discuss the changes in the Board's Administrative Rules. It was the Board's consensus to discuss this at the May 5, 2009 meeting.

OLD BUSINESS

There was no Old Business to discuss.

NEW BUSINESS

Bart Howard, Chairman

Shannon Polen

Elizabeth Trinkler, Vice Chairman

Worrick Robinson

James Mitchell